NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

NOTICE OF *EX PARTE* PRESENTATION

January 14, 2005

VIA ECFS
Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW B204
Washington, DC 20554

Re: ***I/M/O National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing and Billing Format*, CG Docket No. 04-208**

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.206(b), notice is being provided that on Wednesday, January 12, 2005, the undersigned and the following representatives of the National Association of State Utility Consumer Advocates ("NASUCA"),[1] met with K. Dane Snowden, Jay C. Keithley, Leon J. Jackler and Michael J. Jacobs, all from the Consumer and Government Affairs Bureau ("CGB"): Charles Acquard – Executive Director, NASUCA; Kathleen F. O'Reilly – NASUCA; Joy Ragsdale – Attorney, D.C. Office of Peoples Counsel; Karlen R. Reed – Assistant Attorney General, Massachusetts Attorney General (by telephone). In addition, NASUCA's representatives (excluding Ms. Reed) met separately with, in order: Jessica Rosenworcel, Legal Advisor to Commissioner Michael J. Copps; Jennifer A. Manner, Senior Counsel to Commissioner Kathleen Q. Abernathy; and Commissioner Jonathan S. Adelstein, Barry J. Ohlson, Senior Legal Advisor to Commissioner Adelstein and Dionne McNeff, Special Assistant to Commissioner Adelstein.

---

[1] NASUCA is an association of 43 consumer advocates in 41 states and the District of Columbia. NASUCA's members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. *See e.g.*, *Ohio Rev. Code* Ch. 4911; *W. Va. Code* § 24-1-1(f)(2).

The purpose of these meetings was to discuss the issues and arguments raised in NASUCA's petition for a declaratory ruling and reply comments filed in the above-captioned proceeding.

In its pleadings, NASUCA addressed why so-called "regulatory" line items billed to consumers by both wireless and wireline carriers are misleading, deceptive and otherwise fail to satisfy certain pro-consumer principles and guidelines set forth in the Commission's 1999 Truth-in-Billing order and why such charges were not authorized in subsequent Commission orders. In addition, NASUCA's pleadings described how the carriers' surcharges appear to over-recover the costs actually imposed upon them by Commission-imposed obligations. Consistent with the arguments set forth in its pleadings, NASUCA asks that the Commission declare that regulatory line items are prohibited unless they are mandated or authorized by federal, state or local government and that, where such charges are authorized, they conform to the amount authorized by the government. Attached are copies of the Summary and Executive Summary regarding NASUCA's arguments that was distributed during the January 12, 2005 meetings with the Commission.

During the January 12, 2005 meetings, NASUCA noted that one of the regulatory program costs recovered in some carriers' line items, namely costs associated with the provision of interstate Telecommunications Relay Service ("TRS"), appear to be in violation of a 1993 Commission order prohibiting the recovery of such costs via a line-item charge.[2] NASUCA representatives emphasized the importance of the issues raised in this docket to consumers, highlighted by the number of comments filed by individual consumers in response to NASUCA's petition and coverage given NASUCA's petition by print and broadcast media across the country. The problems associated with carriers' regulatory and other line items, NASUCA representatives noted, are widespread across both the wireless and wireline markets though some aspects of the carriers' billing practices are unique to one or the other.

During its meeting with the CGB, NASUCA noted its strong opposition to wireless carriers' arguments that the Commission ought to preempt state laws governing their billing practices and descriptions. NASUCA's representatives noted why the carriers' efforts to utilize NASUCA's petition as the basis for preempting such state laws were inappropriate from both a procedural and legal perspective, and why such action by the Commission would not be in the public interest. In addition, NASUCA disagreed with the wireless carriers' characterization of the burdens imposed on them by compliance with state laws regarding billing matters. NASUCA also disagreed with the suggestion that simply requiring more detailed itemization of charges on consumers' bills would be adequate to address the problems noted by NASUCA in its pleadings, and in comments submitted by other parties in support of NASUCA's petition.

---

[2] *See I/M/O Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, 8 FCC Rcd. 1802, 1806 (¶ 22) (Feb. 25, 1993).

NASUCA's representatives also discussed the problems associated with the wireless carriers' preemption arguments during meetings with the Commissioners and their staff. Further, NASUCA discussed how carriers ought to be required to demonstrate that they are not over-recovering the costs imposed on them by the Commission's mandates, particularly local number portability charges. NASUCA discussed why shifting the burden of demonstrating the reasonableness of carrier surcharges to consumers or their advocates, by filing a complaint for example, was not appropriate. Instead, carriers should be required to file cost data in support of line items where the amount of such items are not established by federal, state or local governments, in a manner similar to the procedure associated with incumbent local carriers' imposition of local number portability.

Very truly yours,

Patrick W. Pearlman
Deputy Consumer Advocate

Attachment: (1) Summary of NASUCA's position
(2) Executive Summary of NASUCA's position